

**AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT**  
**PLANNING COMMISSION MEETING OF: JULY 9, 2009**

**DEPARTMENT: PLANNING & DEVELOPMENT**

**DIRECTOR: M. MARGO WHEELER**

☐ Consent ☒ Discussion

**SUBJECT:**

**ABEYANCE - SDR-34464 - SITE DEVELOPMENT PLAN REVIEW - PUBLIC HEARING - APPLICANT: TOWER REALTY AND DEVELOPMENT, LLC - OWNER: REGAL PLAZA PAD D, LLC** - Request for a Major Amendment of a previously approved Site Development Plan Review (SDR-20711) FOR THE ADDITION OF A RESTAURANT WITH DRIVE-THROUGH TO AN EXISTING 5,566 SQUARE-FOOT RETAIL BUILDING WITH A WAIVER OF TITLE 19.12.040(E) UTILITY BOX AND INSTALLATION SCREENING STANDARDS on 8.16 acres at the southeast corner of Craig Road and Jones Boulevard (APN 138-01-312-003), C-1 (Limited Commercial) Zone, Ward 6 (Ross)

**P.C.: FINAL ACTION (Unless Appealed Within 10 Days)**

**PROTESTS RECEIVED BEFORE:**

**Planning Commission Mtg.**

**1**

**City Council Meeting**

**0**

**APPROVALS RECEIVED BEFORE:**

**Planning Commission Mtg.**

**0**

**City Council Meeting**

**0**

**RECOMMENDATION:**

**DENIAL**

**BACKUP DOCUMENTATION:**

1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Protest Postcard

Motion made by RICHARD TRUESDELL to Hold in abeyance to 8/13/2009

Passed For: 4; Against: 0; Abstain: 1; Did Not Vote: 0; Excused: 1

VICKI QUINN, BYRON GOYNES, GLENN TROWBRIDGE, STEVEN EVANS; (Against-None); (Abstain-RICHARD TRUESDELL); (Did Not Vote-None); (Excused-KEEN ELLSWORTH)

NOTE: COMMISSIONER TRUESDELL erred when voting and asked for his vote to reflect in the affirmative.

Minutes:

CHAIR TROWBRIDGE declared the Public Hearing open.

**PLANNING COMMISSION MEETING OF: JULY 9, 2009**

DOUG RANKIN, Planning and Development, pointed out that the site was not constructed per the approved Site Development Plan Review, civil improvement plans or the building permit. The site, as built, added a drive-through for a restaurant, moved the building eight feet to the south and just over a foot to the west, and added 66 square feet of floor area for a fire riser room and drive-through window area. In addition, the height of the building increased one foot, and the large utility box is not screened as required and easily visible at the front of the site. Staff felt that the drive through does not function relative to navigating and does not provide adequate turn around space. The waiver is not supported by staff, as the drive through exit is located at the end of a parking field that dead-ends and creates a potential hazard, as well as the utility box being visible. The applicant has created a self-imposed hardship, and staff's recommendation was for denial.

ATTORNEY TABITHA FIDDYMENT, 3800 Howard Hughes Parkway, appeared on behalf of the applicant and recognized the fact that the site was built different than what was previously approved. As she explained the history of the site and the proposal, she noted that revised plans have been submitted to the City's Engineering Division who verbally expressed support of the revisions. Regarding the utility box and equipment on site, she confirmed that an architect has been working on rectifying the issue. Fifteen-gallon box trees and vines have been provided as well, so the waiver is no longer needed. Even though staff has not seen the revisions, she respectfully requested approval from the Commission, as she was confident that the applicant would follow through on the modifications.

MARGO WHEELER, Director of Planning and Development, stressed that staff had not seen the revisions and cannot confirm whether or not the requested waivers are in fact no longer needed. MR. RANKIN confirmed that Condition 4 could be deleted regarding the waivers. LUCIEN PAET, Public Works, confirmed that the revisions have been submitted to the Engineering Division but have not been officially approved.

CHAIR TROWBRIDGE emphasized that the curb cuts are in dire need of modifications, as the current one causes tight maneuvering. ATTORNEY FIDDYMENT replied that the modification was incorporated into what was submitted to the Engineering Division.

TODD FARLOW asked if speaker boxes were on the exterior and if there would be a noise issue. ATTORNEY FIDDYMENT stated the speaker boxes would be facing Craig Road, and pointed out that noise from the traffic on Craig Road would be louder.

COMMISSIONERS EVANS and QUINN were not comfortable in voting on a proposal with revisions that the Commission has not had an opportunity to review. Both she and CHAIR TROWBRIDGE visited the site and experienced the trouble in maneuvering through the drive through. They would like to be able to vote knowing that there are no safety issues and there is proper site access. COMMISSIONER EVANS and MS. WHEELER confirmed with MR. RANKIN and MR. PAET that the revised plans, dated 6/4/2009, were submitted to staff.

ATTORNEY FIDDYMENT explained that the revisions entailed the added landscaping and the screened utility box and equipment in the rear, as required by Code.

**PLANNING COMMISSION MEETING OF: JULY 9, 2009**

COMMISSIONER BUCKLEY was also concerned about the drive through exit ending into a parking area, as backing out would be mixing drive through traffic with pedestrian traffic. ATTORNEY FIDDYMENT indicated that there would be an even greater public safety concern if the drive through were located in a different area, and the drive through is not consistent with a typical drive through restaurant, such as Taco Bell, because this business is providing limited amenities and less traffic. COMMISSIONER EVANS pointed out that had the applicant appeared before constructing, the current design would not have been approved.

The Commissioners all believed this was not designed appropriately, and the applicant should have sought approval prior to constructing such a drive through. The subject area is neither appropriate nor safe. ATTORNEY FIDDYMENT agreed that an abeyance was appropriate to allow the applicant time to mitigate the issues expressed. COMMISSIONER EVANS stressed that even with a redesign, he may not approve of the proposal.

CHAIR TROWBRIDGE declared the Public Hearing closed.

